



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/695,474      | 10/28/2003  | Tomonori Gotoh       | FUJS 20.713         | 5600             |

26304 7590 06/04/2008  
KATTEN MUCHIN ROSENMAN LLP  
575 MADISON AVENUE  
NEW YORK, NY 10022-2585

|          |
|----------|
| EXAMINER |
|----------|

RIVAS, SALVADOR E

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2619

|           |               |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

06/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|   |                                      |                                     |  |
|---|--------------------------------------|-------------------------------------|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>10/695,474 | <b>Applicant(s)</b><br>GOTOH ET AL. |  |
|   | <b>Examiner</b><br>SALVADOR E. RIVAS | <b>Art Unit</b><br>2619             |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1,3-5 and 8.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Chirag G Shah/  
 Supervisory Patent Examiner, Art Unit 2619

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues, see Page 7 Lines 28-32 states "... a receiving port extracting part for extracting the receiving port identifier of the transmission path port that received said packet; a source address extracting part for extracting the source address contained in said received packet;" as recited in claims 1 and 8. Also, The Applicant respectfully submits that the combination of the AAPA, Xu et al and Bryden et al. fails to "establish prima facie obviousness." The examiner respectfully disagrees since the combination of the AAPA, Xu et al., and Bryden et al. does teach the limitation of "... a receiving port extracting part for extracting the receiving port identifier of the transmission path port that received said packet; a source address extracting part for extracting the source address contained in said received packet;" (see Page 7 Lines 28-32). For instance, the Xu et al. reference was introduced due to the fact that the reference teaches a device (read as call control manager (Fig. 1 @ 36), Paragraph [0042] Lines 2-6) for sending datagrams representing real time streaming media frames to a client independent of whether the client is served by a network address proxy. Furthermore, device (read as call control manager (Fig. 1 @ 36), Paragraph [0042] Lines 2-6) of the Xu et al. reference is capable of having means for receiving a datagram originated by the client that includes an indicated network address and an indicated port number for receipt of the datagrams representing real time streaming media frames and means for establishing a destination network address and destination port number for sending the datagrams representing real time streaming media frames to the client. (Paragraph [0016] Lines 4-11, Paragraph [0042]). Therefore it would have been obvious to use the reception and extraction function that are used with the device as taught by Xu et al. in combination with AAPA and Bryden et al. for enhancing the exchange and efficiency of quality of transmission of data packets in a network.

The Applicant argues, see Page 7 Lines 38-42 states "... a judging part for judging whether or not to relay said received packet by referring to said table, based on said receiving port identifier extracted by said receiving port extracting part and said source address extracted by said source address extracting part;" as recited in claims 1 and 8. Also, The Applicant respectfully submits that the combination of the AAPA, Xu et al and Bryden et al. fails to "establish prima facie obviousness." The examiner respectfully disagrees since the combination of the AAPA, Xu et al and Bryden et al. does teach the limitation of "...a judging part for judging whether or not to relay said received packet by referring to said table, based on said receiving port identifier extracted by said receiving port extracting part and said source address extracted by said source address extracting part;" (see Page 7 Lines 38-42). For instance, the Bryden et al. reference was introduced due to the fact that the reference teaches Frame Relay devices that allow for the transferring of data packets over an Internet Protocol network using a Virtual Private Network. Furthermore, the Frame Relay devices (Fig.3 @ 302, 306) of the Bryden et al. reference is capable to implement an evaluation function of the incoming packet by the edge node (Fig.3 @ 302, 306 and Fig.4 @ 412) (Column 8 Lines 22-27). Therefore it would have been obvious to use the packet evaluation function as applied to the edge node as taught by Bryden et al. in combination with the AAPA and Xu et al. for the judging part to whether relay or not a received packet for purpose of efficiently establishing data packet transmission control.

Applicant provides additional arguments that do not render the claims allowable after the prosecution on the merit is closed.